



Attorney Docket: JWB-2001-1-P

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of : Harold Mermelstein et al.  
Serial No. : 10/037,526  
Filed : January 4, 2002  
For : Composition and Method for  
Treatment of Vaginal Dryness  
Art Unit : 1615  
Examiner : Rachel M. Bennett

**DECLARATION OF FRANK MARCHESE**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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SIR:

I, FRANK MARCHESE, declare the following under the penalty of perjury:

1. I am a co-inventor of the invention described and claimed in the above-referenced patent application.

2. I obtained a B.S. degree in Organic Chemistry in 1957 from Iona College, New Rochelle, New York and M.S. degree in Organic and Physical Chemistry in 1960 from St. John University, Uniondale, New York.

3. I have been informed, and I am therefore aware, that U.S. Patent No. 6,242,012 B1 issued June 5, 2001 to Newmark et al., and Patent Publication No. 2003/0045829 A1 (Gehling et al.) published March 6, 2003 have been cited against the claims of the above-referenced patent application.

4. Gehling et al. publication is based on a patent application which, on its face, has a filing date of December 21, 2001, and is based on Provisional Application No. 60/315,882 filed in the United States Patent and Trademark Office on August 29, 2001.

5. Prior to August 29, 2001 I, together with my co-inventor Harold Mermelstein, conceived, and reduced to practice, the invention which is claimed in the above-referenced patent application. The annexed pages are copies of pages from my notebook in which I described the experiments relating to the preparation of the various compositions.

6. Prior to August 29, 2001 I prepared the compositions set forth in my Laboratory Notebook pages which bear the designation EXP 7, Experiment 11 and Experiment 15, copies of which are annexed hereto as Exhibits A, B and C, respectively. Also annexed hereto is Exhibit D, which is a copy of Experiment 10 which is referred to in Experiment 11.

7. Also prior to August 29, 2001, the compositions prepared in Experiments 7, 11 and 15 were submitted to my co-inventor, Harold Mermelstein, for evaluation as vaginal moisturizers.

8. Upon information and belief, prior to August 29, 2001, and said Harold Mermelstein evaluated said compositions as vaginal moisturizers and reported the results to me orally and in writing. In addition, he also compared the effectiveness of said compositions to the composition disclosed in Newmark et al. and found that the compositions described in annexed Exhibits A, B and C to be superior to the composition disclosed by Newmark.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine, or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issued therein.

Dated: November 17 2003

Frank Marchese  
Frank Marchese